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DE RUEHGV #2373/01 2841539  
ZNY CCCCC ZZH  
P 111539Z OCT 07 ZDK  
FM USMISSION GENEVA  
TO RUEHC/SECSTATE WASHDC PRIORITY 5374  
INFO RUEHZJ/HUMAN RIGHTS COUNCIL COLLECTIVE  
RUCNDT/USMISSION USUN NEW YORK

C O N F I D E N T I A L GENEVA 002373

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E.O. 12958: DECL: 10/12/2007

TAGS: PHUM UNHRC

SUBJECT: HUMAN RIGHTS COUNCIL SIXTH SESSION:  
INSTITUTION-BUILDING ADVANCES; POLITICAL DYNAMICS LARGEMLY  
UNCHANGED

REF: A. GENEVA 2184  
1B. GENEVA 2355

Classified By: Ambassador Warren W. Tichenor. Reasons: 1.4 (b/d).

11. (C) SUMMARY: The Human Rights Council held the first part of its sixth regular session on September 10-28. It largely completed the institution-building process that had occupied much of its first year of existence, laying the groundwork for mechanisms such as universal periodic review (UPR) to get underway. The session featured lengthy segments devoted to country-specific human rights problems, and although the drumbeat of criticism of Israel continued, it did not appear to dominate the discussion to the extent of previous sessions. Durban-related themes surfaced frequently and were an overarching element in much of the session. The renewal of a few voluntary country mandates set back efforts by the Organization of the Islamic Conference (OIC) and others to eliminate country mandates altogether, although the effort will no doubt continue. The Council passed a mixed bag of resolutions, including on the Occupied Palestinian Territories, and held a noteworthy special session that deplored Burmese repression (ref b). The Council deferred action on religious intolerance amidst vigorous, if apparently disorganized, OIC-led efforts to refocus it on post-9/11 "Islamophobia." There may have been small hints of a firming up of EU positions vis a vis the OIC, although it is far too early to tell if these will gain momentum; meanwhile, the OIC will remain the prime force to be reckoned with. END SUMMARY.

SIXTH SESSION USHERS IN A MORE INTENSE SCHEDULE

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12. (C) The Human Rights Council held the first three weeks of its sixth regular session on September 10-28, with a one-week continuation slated for December 10-14. Council President Doru Costea of Romania put delegates on notice that in 2008, they will face a far more intense schedule than in the past, including at least ten weeks of Council sessions, nine weeks of Durban-related meetings, six weeks of UPR sessions, and several weeks of cultural and economic rights-related meetings. Costea drew mixed reviews for his performance to date. He was widely criticized for being disorganized, which sometimes led to late distribution of draft resolutions and orders of the day, as well as for allowing deadlines to slip. At the same time, many saw him as being even-handed in running the session; his handling of points of order by Egypt against an NGO, for instance, defused further controversy while allowing the group to continue with its intervention. Beyond that, Costea seemed focused on running the Council transparently, without engaging in the back-room maneuvering of his predecessor.

INSTITUTION-BUILDING, AND CHALLENGES TO OHCHR INDEPENDENCE

**¶13.** (SBU) Early on, Costea made completion of the institution-building process a key goal, and several days were devoted to the effort. The Council eventually agreed to UPR guidelines and established the first four-year schedule for countries to undergo UPR, as well as agreeing to candidacy requirements for both mandate holders and Advisory Committee members. On the UPR front, much debate centered on whether to kick off the review of countries in February, as originally conceived, or delay the start in response to appeals by the African Group and NAM countries that they would need more time to prepare. Many WEOG members saw this as a stalling tactic, and WEOG pressed for the February date, but it accepted the April start date after gaining assurances that individual countries would not be able to further postpone their review. Expectations vary widely about how effective UPR will prove, and concerns run high that the process could be used as an excuse to eliminate country mandates or country-specific action in the Third Committee. At the same time, many observers agree that the initial UPR reviews will set the tone and could go far to shape the mechanism's effectiveness, and some have held out the hope that a country's refusal to undergo a review would have strong consequences, possibly involving imposition of a new mandate. (Septel will discuss both the UPR mechanism and expectations about it in greater detail.)

**¶14.** (SBU) Among the recurring themes of the session was the relationship between the Office of the High Commissioner for Human Rights (OHCHR) and the Council. As we have noted previously (ref a), High Commissioner Arbour has been concerned about threats to the independence of her office. For this reason, she decided that, after giving her statement on Item 4 (Human Rights Situations), she would not engage in

an interactive dialogue to avoid being forced to take sides in ways that could be seen as suggesting lack of both evenhandedness and independence. Many in the Western Group, though sympathetic to her concerns, were troubled by her unwillingness to engage in interactive dialogue, and she eventually agreed that delegations could comment on her statement and pose questions, although she would not respond.

More troubling, meanwhile, were demands by several OIC and Africa Group members that the Council explicitly define the Council-OHCHR relationship. In another swipe at her office, Egypt refused to accept establishment of a OHCHR regional office in Cairo, and insisted that regional offices be opened only after consultation with neighboring states as well as the receiving country itself.

#### ADDRESSING COUNTRY-SPECIFIC HUMAN RIGHTS ISSUES

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**¶15.** (SBU) Although institution-building occupied more of the session than had been expected, lengthy segments were devoted to country-specific human rights concerns (in addition to the October 2 Special Session on Burma, described ref b). The most extensive segment came in a September 24 discussion of Item 4 (Human Rights Situations), in which Ambassador Tichenor's intervention focused on Cuba, North Korea, Uzbekistan, Zimbabwe, Sudan, Burma, Belarus, Russia and China. Those countries, as well as Fiji, Sri Lanka and others, were also addressed by other countries in that segment. Other segments also allowed for discussions of country-specific issues. Presentation of an interim report of the Experts Group on Darfur, for instance, led to Western Group criticisms of Sudan.

#### SOME COUNTRY MANDATES RENEWED, BUT THREAT PERSISTS

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**¶16.** (C) Calls by the OIC and African Group to consider all mandates as a package marked a recurring theme of the session. Although the modalities of doing so were never clearly laid out, the underlying goal appears to have been elimination of all country mandates. Nonetheless, the

African Group has long argued that it would support a mandate requested by the concerned country, and it thus did not block extension of the technical mandate for Burundi, which was adopted by consensus. Haiti also requested continuation of its mandate, which was adopted by consensus under the leadership of France, with co-sponsorship by the U.S. and others. (Interestingly, Cuba did not oppose.) Passage of the Burundi and Haiti mandates undercut the package consideration idea, although the effort is likely to resurface. In the short term, the African Group will continue with the push it began in this session to eliminate the Democratic Republic of Congo and Sudan mandates. On Sudan in particular, however, the Africa Group appears divided, making prospects of eliminating the mandate unclear.

#### OUTCOME ON RESOLUTIONS; RELIGIOUS INTOLERANCE ISSUE LINGERS

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¶7. (C) In addition to passing resolutions on Burundi and Haiti, the Council devoted its final day to passing a host of thematic resolutions, including many unhelpful ones. (Septel will list the resolutions that passed in the session.) A Guatemala-sponsored resolution on Indigenous Peoples was adopted by consensus, after which Canada stressed it had not blocked consensus only because the words "where applicable" had been added to the DRIP reference in the text, meaning that it did not apply to Canada. Two Cuba-sponsored resolutions, on the Social Forum and on enjoyment of cultural rights and respect for different cultural identities, were adopted by consensus but with the EU expressing concerns; the Cuba-sponsored unilateral coercive measures resolution passed by a 34-11-2 vote, with EU members voting against it. Egypt-proposed resolutions on racism/xenophobia and on preparation for the Durban Review Conference, passed by vote (28-13-5 and 33-10-3, respectively) after strong EU criticism; some EU reps subsequently told us their statements signified that they were "putting their foot down" on Durban-related action.

¶8. (C) Two resolutions criticizing Israel were also adopted on the final day. The first of these, which focused on follow-up to a resolution on the investigation of Beit Hanoun, was adopted by consensus, although the EU subsequently expressed objections and Canada dissociated from consensus. The second, on Religious and Cultural Rights in the Occupied Palestinian Territories (OPT), including East Jerusalem, passed by a 31-1-15 vote. Canadian reps told us that they had insisted the EU call the vote, arguing that Canada had been alone in doing so for too long and that the

EU had to share the burden; the EU did call the vote, although its members abstained, leaving Canada as the only "no" vote. Item 7 discussion of OPT included the usual attacks by the OIC and others on Israel, countered, among others, by a U.S. intervention on the potential of negotiations for a two-state solution and a call for balance on Middle East issues. OIC countries also took swipes at Israel at other times during the sixth session, with Pakistan (on behalf of the OIC) even doing so in the Burma special session (as noted ref b).

¶9. (C) The fate of the EU's religious intolerance resolution was a dominant theme throughout the session. The OIC reportedly sought to include hostile amendments referring to "defamation and desecration of religious personalities" and the "responsibility of the media," among others. In the end, however, the OIC did not press the EU as hard as had been expected to pass a resolution containing such references. In subsequent conversations with us, EU reps said they were unsure of the reasons, speculating that the OIC may not have not been sufficiently organized on the issue. The resolution was deferred, although it remains unclear whether it will be considered again in the December Council session or later. Some WEOG reps saw this as a victory for the OIC in stymieing an EU resolution that did not include language on defamation; others viewed as a victory -- albeit temporary -- for the EU, which succeeded in fighting off the OIC on the issue.

COMMENT

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¶110. (C) As it began what is in effect its second year of existence, the Council still had much work to do to establish both its new institutions (like UPR) and those being reconstituted (like the Advisory Committee, formerly the Sub-Commission). The sixth regular session made useful progress in that regard, although much work remains to be done and, more fundamentally, the effectiveness of those new institutions remains to be determined. Meanwhile, the regular session (and the Special Session on Burma that followed) allowed for country-specific human rights concerns to be aired, including in a Webcast forum. Hard-hitting criticism of the behavior of Cuba, North Korea, Iran and others that violate human rights was heard loud and clear in the Council, most notably from Canada, Australia, and others, but also from EU countries and, on those few occasions when we intervened, from the U.S. as well. The EU has taken a few encouraging steps, including calling for votes on at least one OPT resolution (although it abstained in the voting) and two Durban-related ones. Operationally, we have found it easier to deal with the EU now than when under the German presidency. Whether any of this signifies a shift in the EU's approach to the Council is far from clear; at any rate, the OIC, generally working with the African Group and often with cooperation from Russia and China, will continue to define the Council's political dynamic.

TICHENOR